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GENERAL AND REVENUE SECRETARIAT.

1908-09
(prisons.)

File No. 38-08+09

Serial Nos. 3 & 4

Papers Filed.

Month April '09

SUBJECT.

Transfer of military prisoners not enlisted in India who have been convicted by civil courts & discharged from the army.

PREVIOUS REFERENCES.	LATER REFERENCES.
file No 38-66-08 Sl. 1+2 forjans 09.	

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1908-09

GENERAL AND REVENUE SECRETARIAT.

(Prisons)

NOTES.

File No. 38-08-09

FILE HEADING.

Transfer of military prisoners not enlisted in India who have been convicted by Civil Courts and discharged from the army.

From

The First Asst to the Hon'ble the Resident in Mysore.

No. 1771 Dated 20.3.09 Received

Diary No. 7240 | Enclos. 4 | Spare Copies | Serial No. 3

BRIEF ABSTRACT OF LETTER.

Forwards copy of letter no: 56-64 & 17.2.09 from the Govt of India, Home Dept, with enclosures thereto, re the above matter, for information (in continuation of S. no: 1 Pris: Fl. no 38-08-09-B & Jany: 09).

NOTES AND ORDERS.

Submitted with a draft letter to the D. G of Prisons, forwarding the Communication of the Govt of India for information.

26.3.09

24/3/09

NOTES—First sheet

GPB—30,000—3-4-07.

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General and Revenue Secretariat.

~~38~~ File No. 38 of 1908

Serial No.	
4	To The I. G. of Prisons No J 2858 dt 6.4.09 forwards the above.

Letter No. 56-64, dated the 17th February 1909 from the

Government of India, Home Department.

Lysore Resident's Office,

Bangalore, dated the 23rd March 1909.

A copy of the foregoing letter, with enclosures thereto, is forwarded to the Government of His Highness the Maharaja of Mysore, for information, in continuation of this office letter No. 6110, dated the 19th November 1908.

First Assistant Resident.

Nos. 56—64.

FROM

G. B. H. FELL, Esq.,

Deputy Secretary to the Government of India,

To

Home Department.
Jails.

Calcutta, the 17th February 1909.

SIR,

WITH reference to the correspondence ending with the Home Department endorsement no. , dated the 14th January 1908, I am directed to state that the Government of Bombay have experienced considerable difficulty in procuring passages by private vessels for the removal of *ex*-military convicts to the United Kingdom, and the Government of India have therefore decided to modify the instructions contained in the Home Department letter no. , dated 1st October 1904, with the object of making use to the fullest possible extent of troopship passages for the purpose.

2. The revised instructions, which should be taken as superseding those hitherto in force are annexed to this letter, and I am to add the following remarks in explanation of them.

3. (*a*) The chief result of the new rules, it will be observed, is to abolish the distinction hitherto observed in the procedure in the case of prisoners who do and who do not object to removal from India. The general rule will be that all *ex*-military prisoners not enlisted in India, who after conviction by a civil court, are ordered to be discharged from the Army, will, as far as possible, be removed under warrant.

(*b*) To effect this it will be necessary, when the prisoner's sentence expires between the close of one trooping season (31st March) and the opening of the next (1st October), to remove the prisoner, if possible, by the last troopship of the season preceding the date of expiry of sentence; in some cases, this will have the effect of considerably reducing the sentence, but this result, it may be hoped, will not be of frequent occurrence and is unavoidable if the desired object—the removal of the men—is to be attained. This objection is of less force in the case of short-term prisoners who, when accommodation is available, will be removed by troopship in a similar manner, in all cases in which the length of their sentences is sufficient to admit of the carrying out of the necessary formalities.

(*c*) Where these conditions are not fulfilled, *ex*-military prisoners will be released at the expiry of sentence from the jails of the province in which they were convicted; and they will not be transferred to Bombay, unless they are willing, on release, to quit India. In this event, they will be transferred to the House of Correction, Bombay, shortly before release in order that arrangements may be made for their passage by a private vessel. It must be recognized that the effect of this arrangement will be to release in this country a certain number of *ex*-military convicts, but the Government of India believe that

no serious harm need result if care is taken on the one hand to see that the largest possible number of such prisoners are dealt with under the Colonial Prisoners Removal Act, and if on the other hand, as many as possible of those not so dealt with are provided on release with passages by private vessels.

I have the honour to be,

SIR,

Your most obedient servant,

G. B. H. FELL,
Deputy Secretary to the Government of India.

Instructions for the transfer to the United Kingdom or to a British possession of soldiers not enlisted in India who have been convicted by Civil Courts and discharged from the Army.

1. On receipt in prison of a military prisoner not enlisted in India who has been convicted by a Civil Court, it should be ascertained without delay whether his discharge from the Army has been ordered.

2. All such prisoners who are to be so discharged, should whenever possible be removed from India under the provisions of the Colonial Prisoners Removal Act, 1884, during the trooping season in which their sentences expire, or if their sentences expire between the end of one trooping season and the beginning of the next, during the season previous to the expiry of their sentences. In the latter case they should be sent if possible by the last troopship sailing at the end of the trooping season.

3. Cases may however occur in which it is impossible to arrange for deportation under the Act; either because the whole term of the sentence falls between the close of one trooping season and the opening of the next, or because the sentence itself or the period between the date of sentence and the closing of the trooping season is too short to admit of the necessary formalities being carried out. In such cases prisoners cannot be compelled to leave British India on release, but if they do not object to do so they should be transferred to the House of Correction, Bombay, shortly before their sentences expire and on completion of sentence they should be provided with a passage by a private vessel and unostentatiously seen on board. If they refuse to quit India they must ordinarily be released from the jails of the province in which they have been convicted.

4. Prisoners dealt with under rule 2 and such of those referred to in rule 3 who do not object to quit India should be transferred, under the authority conferred on local Governments by the general orders under section 29 (1) of the Prisoners Act, 1900 (III of 1900), laid down in the Resolution of the Government of India in the Home Department, no. 446-58, dated the 8th August 1904, from the prison in which they are confined to the House of Correction, Bombay. In the case of prisoners dealt with under rule 2 the transfer should be effected not less than three months before the end of the trooping season or before the expiry of sentence, as the case may be. When the sentence is less than three months the transfer should be made as soon as possible.

5. In the case of prisoners referred to in rule 2 local Governments in directing the transfer, under the general orders referred to in rule 4, should make an order remitting the residue of the sentence with effect from the date of disembarkation in the United Kingdom or in the British possession to which the prisoner is removed. This order should be communicated to the Government of Bombay at the time of advising the prisoner's transfer. The earliest possible intimation should also be given to the Government of Bombay of the date on which the prisoner may be expected to arrive in Bombay and of the date and term of his original sentence.

6. In the case of prisoners dealt with under rule 2 the following procedure should be observed :—

(*a*) Four months before the end of the trooping season or before the expiry of the prisoner's sentence, as the case may be, or in the case of shorter sentences as soon as it has been ascertained that the prisoner is to be discharged, a request should without delay be made to the Government of India who will proceed to obtain the Secretary of State's orders for the prisoner's removal under sections 2 (*b*) and 5 of the Colonial Prisoners Removal Act, 1884 (47 and 48 Vict., C. 31). A copy of the despatch from the Government of India will be forwarded simultaneously to the Government of Bombay.

The Secretary of State will communicate the Order of Removal direct to the Government of Bombay who will thereupon draw up in duplicate or in triplicate as the case may be a Notification of Concurrence in the Order of Removal in

the form annexed for the signature of His Excellency the Governor as required by His Majesty's Order in Council dated the 9th September 1907 and will also issue the necessary Warrant under section 7 of the Colonial Prisoners Removal Act, 1884, directing the prisoner's removal to the United Kingdom or to a British possession. The Government of Bombay will send one copy of the Notification of Concurrence to the Secretary of State. In the case of the removal of a prisoner to a British possession a copy will also be sent to the Governor of the Colony to which the prisoner is to be removed.

Note.—The above procedure will not apply to the removal of a prisoner from one British possession to another in pursuance of an agreement made between such possessions and sanctioned by Order in Council under the provisions of the Colonial Prisoners Removal Act, 1869.

7. When it is desired to remove prisoners under warrant by troopship the Government of Bombay will ascertain direct from the General Officer Commanding Bombay District whether a passage can be provided and the name of the Officer Commanding the troops on board. In this case the warrant* under section 7 of the Colonial Prisoners Removal Act, 1884, shall confer the requisite authority upon the Officer Commanding the troops on board.

* Copy attached.

8. Considerable time will be expended in carrying out the procedure described above and it is essential that no delay shall occur in addressing the Government of India so as to enable them to obtain the Secretary of State's Order of Removal as soon as possible. Accordingly when the term of imprisonment is less than three months the Government of India should be communicated with by telegraph.

NOTIFICATION OF CONCURRENCE IN ORDER OF REMOVAL OF A PRISONER.

Colonial Prisoners Removal Act, 1884.

Whereas an Order has been made under the Colonial Prisoners Removal Act, 1884, by one of His Majesty's Principal Secretaries of State for the removal of *A. B.* a prisoner now in custody in the Colony (*or* Presidency *or*) of to the United Kingdom [*or* the Colony (*or* Protectorate *or*) of]:

Now I, the Governor (*or* Lieutenant-Governor *or* the Officer Administering the Government) of the Colony (*or* Presidency *or*) of , with the advice of the Executive Council of the said Colony (*or*) hereby concur in the said order of removal.

As witness my hand this day of 190 .

III.—Warrant for removal of a Prisoner.

Colonial Prisoners Removal Act, 1884.

To C. D., the keeper of the prison, and to E. F. and G. H.

Whereas an order has been made, under the Colonial Prisoners Removal Act, 1884, by one of Her Majesty's Principal Secretaries of State, with the concurrence of the Government of the colony [*or* presidency, *or*] of [and the Government of the colony (*or* presidency, *or*) of], for the removal of A. B., a prisoner now in the custody of you, the said C. D., under a sentence of penal servitude [*or* imprisonment, *or, as the case may be,*] for the term of years from the day of [*or* for life], to the United Kingdom [*or* to the colony (*or* presidency, *or*) of], there to undergo the residue of the said sentence. Now I do hereby, in pursuance of the said Act, order you, the said C. D., to deliver the body of the said A. B. into the custody of the said E. F. and G. H. or one of them; and I do hereby, in further pursuance of the said Act, authorize you, the said E. F. and G. H., or either of you, to receive the said A. B. into your custody, and to convey him to the United Kingdom [*or* to the colony (*or* presidency, *or*) of], and to deliver him to such person or persons as shall be empowered by one of Her Majesty's Principal Secretaries of State [*or* of the Governor of the said colony (*or* presidency, or)] to receive him for the purpose of giving effect to the said order of removal.

And for so doing this shall be your warrant.

Given under the hand of the undersigned, one of Her Majesty's Principal Secretaries of State [*or* Governor of], this day of 19 .

G.R.S. 26]

Pris:- File No. 38-08-09
Serial No. 4

Diary No. of letter replied to J 2407

No. J 2958 Pris/

86-4-09.

General and Revenue Secretariat
( )
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To
The Inspector General of Prisons in Mysore.
Bangalore.

Date of issue 6.4.09.

Signed by Sri. S Srinivasamurthy

(to be typed)

Sir

I am directed to forward a copy of letter no: 56-64 dated the 17th February 1909 from the Govt of India Home Dept with enclosures thereto, for information in continuation of this office letter no: 2207 dated the 30th January 1909.

I have &c

for Secretary

over.

NB
Typed copies of the enclosures sent herewith and required

CRW
26.3.09
MS

SUBJECT.

2/4/09